

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 24TH JANUARY 2007 / 4TH MAGHA 1928

Bail Appl..No. 390 of 2007()

CP.31/2006 of ADDL.C.J.M., ERNAKULAM
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: PETITIONER/2ND ACCUSED

MUJEEB RAHMAN, S/O.P.M.MOHAMMED,
AGED 29 YEARS, PULPPARA HOUSE,
VAZHAPPILLY DESAM, VELLOOR KUNNAM VILLAGE,
MOOVATTUPUZHA.

BY ADV. SRI.A.MOHAMMED

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
S.I. OF POLICE,
HILL PALACE POLICE STATION,
ERNAKULAM, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.

BAIL APPLICATION NO. 390 OF 2007

DATED THIS THE 24th DAY OF JANUARY, 2007

O R D E R

Petitioner who is the second accused in Crime No.20/04 of Hill Palace Police Station for an offence punishable under section 55(a) of the Abkari Act for allegedly having instructed accused 1 and 3 to procure spirit and for having recovered 300 litres of spirit from an Opel Astra Car on 12.1.2004, seeks anticipatory bail.

2. Learned Public Prosecutor opposed the application submitting, inter alia, that the petitioner was the person who had entrusted accused 1 and 3 to procure the contraband spirit from the State of Karnataka as can be seen from the confession statement given to the Police by accused 1 and 3.

3. The counsel for the petitioner contended that the petitioner is not the owner of the car in question and that apart from the confession made by accused 1 and 3 to the Police which is inadmissible, there is absolutely no material to connect the petitioner with the seizure of the contraband spirit.

4. Anticipatory bail cannot be granted in a case of this nature. There is no reason why the petitioner should not surrender before the Additional C.J.M., Ernakulam where the case is pending as C.P.No.31/06 and seek regular bail. Since accused 1 and 3 have already been enlarged on bail, I see no reason to treat the petitioner differently. Accordingly, if the petitioner surrenders before the Additional C.J.M., Ernakulam and files an application for regular bail, within two weeks from today, he shall be released on bail on conditions similar to those imposed against accused 1 and 3. It goes without saying that if the Investigating Agency is desirous of interrogating the petitioner, it can apply for Police custody of the petitioner.

With this direction, this petition is disposed of.

V.RAMKUMAR, JUDGE

dsn